(G.C.P.)J 455 (5,00,000)-11.2001) Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

Writ Petition No.1661 of 2004

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions and Registrar's order.

Court's or Judge's orders

Shri S.S.Deshpande for the petitioners.

Shri R.V.More for respondent Nos.1 to 5.

Smt. A.R.S.Baxi for Respondent No.6.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 7th SEPTEMBER, 2004.

P.C.

1. Heard the learned advocates for the parties. Both the Courts below have arrived at the concurrent findings on the points of non payment of rent, bonafide and reasonable need of the suit premises for the occupation of the respondents, greater hardship to the respondents in case of refusal of decree of eviction to the respondents and the said findings are clearly borne out from the materials on record, and, therefore, the same neither disclose any perversity nor arbitrariness. The contention that the respondent No.6 was referred to as a

trespasser for having illegally inducted in the premises by the petitioners, that therefore it would change the status of the lessee of the petitioners is devoid of substance, besides, on that count, the petitioners would not be entitled to non-suit the respondents/ original plaintiffs. Undoubtedly, no issue in that regard was framed nor any grievance on that count was made by the petitioners before the Courts below and, therefore, the petitioners are not entitled to seek interference on that ground in the impugned order in exercise of writ jurisdiction. As no case is made out for interference in the impugned order in writ jurisdiction, the petition is summarily rejected.